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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,102	06/08/2006	Bent Severin	66722086	7421

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EXAMINER

PENDLETON, DIONNE

ART UNIT	PAPER NUMBER
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2615

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/574,102

Applicant(s)

SEVERIN, BENT

Examiner

Dionne H. Pendleton

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) n/a is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/8/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/31/2006.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 5 recites the limitation "the subassembly" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-5** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Killion (US 3,835,263)** in view of **Killion (US 6,876,749)**.

Regarding claim 1,

in **figure 4**, Killion '263 teaches a hearing aid **36** for placement behind the ear lobe of a hearing aid user, comprising a top shell (see upper perimeter of housing) and a bottom shell part (see lower perimeter of housing), and further wherein the top shell includes sound inlet opening(s) **40** (*column 4, lines 31-32*), and the bottom shell part is shown in **figure 4** as providing a mounting support for a microphone assembly **35**.

Killion '263 does not clearly teach that the hearing aid has a rigid circuit board **59** and a suspension **35** for holding the microphone, and whereby the microphone suspension **35** comprises fixing means **109,111** for attachment thereof to the circuit board **59**.

However, In **Figure 2A**, Killion '749 teaches a hearing aid, where the hearing aid has a rigid circuit board **59**, a microphone **41** and a suspension **35** for holding the microphone, and whereby the microphone suspension **35** comprises fixing means **109,111** for attachment thereof to the circuit board **59**.

It would have been obvious for one of ordinary skill in the art at the time of the invention to substitute the microphone assembly of Killion '749 for that of Killion '263, thereby providing flexibility in choosing the frequency response of the microphone, as well as a less acoustically complex assembly having omni-directional and directional modes of operation.

Regarding claim 2,

Figure 2A of Killion '749 teaches a sound canal **47,49** between microphone **41** and the sound inlet opening **77,79** in the top shell.

Regarding claim 3,

Killion '749 teaches that the fixing means **109,111** are arranged adjacently to the sound canal, as broadly claimed.

Regarding claim 4,

Killion '749 teaches that the fixing means **109,111** comprise recessed portions, reading on "aperture" for receiving a projecting part (edges members) of the circuit board.

Regarding claim 5,

The combined teachings of Killion '263 and Killion '749 inherently teach the method for producing the hearing aid according to claim 1, whereby the circuit board **59**, microphone suspension **35** and microphone **41** are initially assembled and secondly electric wire **65** connections between the microphone and the circuit board are provided whereupon the subassembly is placed in a housing (**article 36 of Killion '263**) having a top and bottom shell such that the sound inlets inherently connect with the sound canal of the microphone suspension.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne H. Pendleton whose telephone number is 571-272-7497. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


D. Pendleton


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